

October 17, 2002

**VIA TELECOPIER TO PLAINTIFF
AND THE COURT AS A COURTESY
& VIA ELECTRONIC SUBMISSION TO
THE COURT AND ALL PARTIES**

Honorable Magistrate Judge Cheryl L. Pollak
United States District Court for
the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: NAACP v. ACUSPORT et al.
99 Civ. 7037 (JBW)

Dear Magistrate Judge Pollak:

We write on behalf of distributors BONITZ BROTHERS, INC.; JERRY'S SPORTS, INC., D/B/A JERRY'S SPORT CENTER, NORTH EAST S/H/A JERRY'S SPORTS CENTER, NORTH EAST, INC.; JERRY'S SPORTS, INC., D/B/A JERRY'S SPORTS CENTER, INC.; OUTDOOR SPORTS HEADQUARTERS, INC.; and SIMMON'S GUN SPECIALTIES, INC., (collectively, "Jerry's"), in protest to Plaintiff's application to delay its expert submissions to January 20, 2003. We also write to protest, in the strongest terms, the submission of a partial affidavit from Dr. Allen to the extent that it implies that there is any "proof" in the form of admissible evidence that JERRY'S is a "crime gun" distributor. Further, we assume that Plaintiff was not claiming that JERRY'S is in violation of any of this Court's Orders.

JERRY'S objects to Plaintiff's application because JERRY'S is particularly disadvantaged by Plaintiff's attempt to adjourn its expert responses to *less than two months before trial*. Unlike the Plaintiff and most co-defendants' experts, our consultant, Dr. McInerney, has no prior experience in the Hamilton case or the myriad lawsuits brought in other jurisdictions against the manufacturing defendants. Dr. McInerney will need every minute of the time this Court has allotted, from December 20, 2002 to mid-February 2003 to make his calculations and opinions with respect to the BATF records and any other information disclosed by any party to Plaintiff. Further delay will prejudice JERRY'S greatly in its defense of this lawsuit. Finally, on behalf of JERRY'S, we ask the Court to require Plaintiff to serve this office with all papers because Mr. Gross's office is no longer acting as a liaison counsel for the distributors.

Very truly yours,

James P. Tenney (JT 4973)